Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Text

LIMITED OFFICIAL USE

PAGE 01 MANILA 05876 200834Z

20
ACTION EB-11

INFO OCT-01 EA-11 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

DOTE-00 INR-10 NSAE-00 RSC-01 FAA-00 SS-20 NSC-07 L-03

IO-14 DRC-01 TAR-02 /090 W
---------- 086874
R 200705Z MAY 74
FM AMEMBASSY MANILA
TO SECSTATE WASHDC 3599

LIMITED OFFICIAL USE MANILA 5876

E.O. 11652: N/A
TAGS: ETRN, RP
SUBJECT: CIVAIR - FOREIGN GOVERNMENT SUBSIDIES TO FORIEGN AIRLINES

REF: A. STATE 79306
B. MANILA 6304, MAY 31, 1973
C. STATE A-7746, SEPT. 11, 1973

1. MAJOR AREA OF DISCRIMINATION BY PHILIPPINE GOVERNMENT IN FAVOR PHILIPPINE AIR LINES IS IN AREA OF TAXATION. PAL PAYS A 2 PERCENT FRANCHISE TAX ON ITS GROSS OPERATING REVENUE WHICH IS IN LIEU OF ALL OTHER TAXATION. FOREIGN CARRIERS PAY A 2 1/2 PERCENT COMMON CARRIERS' TAX IN LIEU OF INCOME TAXES AND ARE IN ADDITION SUBJECT TO IMPORT AND OTHER TAXES FROM WHICH PAL IS EXEMPT.

2. COMMON CARRIERS TAX IS COLLECTED ON FULL FARE TO POINT OF DESTINATION MINUS 25 PERCENT. TICKET FROM MANILA TO NEW YORK, FOR EXAMPLE, WOULD REQUIRE PAYMENT OF 2 1/2 PERCENT ON FULL JOURNEY, UNLESS JOURNEY BROKEN BY STOP OF 48 HOURS OR MORE. IF JOURNEY BROKEN, TAX COLLECTED ON FARE TO POINT OF BREAK. TAX APPLIES TO ALL OUTGOING PASSENGERS, REVENUE OR NON-REVENUE, AND IS PARTICULARLY BURDENSOME IN CASE OF REDUCED-RATE TICKETS, SUCH AS ROUND-TRIP EXCURSION TICKETS SOLD
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 MANILA 05876 200834Z

TO JAPANESE TOURISTS IN JAPAN. TAX IS COLLECTED ON

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

BASIS OF FULL FARE MINUS 25 PERCENT, IN THIS CASE FROM MANILA TO TOKYO, YET REVENUE TO CARRIER IS CONSIDERABLY LESS THAN THIS.

3. FOREIGN CARRIERS ARE EXEMPT FROM IMPORT DUTIES ON GROUND EQUIPMENT FOR USE ON RAMP. THIS IS BASED ON CHICAGO CONVENTION, OF WHICH PHILIPPINES IS SIGNATORY. HOWEVER, PHILIPPINES LEVIES A TRANSACTIONS TAX, WHICH IS APPLICABLE TO IMPORTED ITEMS, AND FOREIGN CARRIERS ARE NOT EXEMPTED EVEN FOR GROUND REQUIREMENTS. KNOWN AS COMPENSATING TAX, RATE IS ABOUT 7 PERCENT ON GROUND EQUIPMENT. FOR ALL OTHER IMPORTS, FOREIGN CARRIERS PAY USUAL CUSTOMS DUTIES AND COMPENSATING TAXES.

4. AN IATA TAX COMMITTEE WORKING GROUP HAS BEEN DISCUSSING THIS DISCRIMINATORY TAX REGIME WITH FINANCE UNDERSECRETARY PIO DE RODA AND THE BUREAU OF INTERNAL REVENUE AND WILL RETURN ON MAY 26 FOR ANOTHER ROUND OF TALKS.

5. PAL PROVIDES MOST GROUND HANDLING SERVICES TO MOST AIRLINES. QANTAS DOES ITS OWN GROUND HANDLING AND MAY PROVIDE GROUND HANDLING SERVICES FOR OTHER COMMONWEALTH CARRIERS. IT MAY NOT PROVIDE SERVICES TO NON-COMMONWEALTH CARRIERS. NON-COMMONWEALTH CARRIERS MAY INDIVIDUALLY PROVIDE THEIR OWN GROUND HANDLING, BUT IT WOULD BE UNECONOMICAL FOR THEM TO DO SO. PAL DOES NOT HAVE A COMPLETE MONOPOLY ON SERVICES TO NON-COMMONWEALTH CARRIERS, HOWEVER, SINCE OTHER PHILIPPINE FIRMS ARE ALLOWED TO PROVIDE GROUND HANDLING, AND THERE IS ONE WHICH DOES SO AND WHICH IS UTILIZED BY NORTHWEST FOR SOME SERVICES.

6. PAL IS CURRENTLY INVOLVED IN LITIGATION WITH PHILIPPINE GOVERNMENT OVER TAXES ON ITS EARNINGS FROM GROUND SERVICES. BUREAU OF INTERNAL REVENUE (BIR) ARGUES THAT PAL SHOULD PAY USUAL CORPORATE TAXES ON THESE EARNINGS, WHICH IT BELIEVES SHOULD NOT BE COUNTED AS OPERATING REVENUES ELIGIBLE FOR LOWER 2 PERCENT FRANCHISE TAX.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

7. BIR LITIGATION POINTS UP FACT THAT GOVERNMENT PARTIAL OWNERSHIP OF PAL IS NOT OF GREAT SIGNIFICANCE IN RESPECT TO EUESTIONS OF DISCRIMINATION. GOVERNMENT ACQUIRED CONTROLLING INTEREST OF PAL IN 1947 WHEN AIRLINE APPROACHED GOVERNMENT BECAUSE OF FINANCIAL DIFFICULTIES. IN 1963 GOVERNMENT SOLD ITS HOLDINGS TO GOVERNMENT SERVICES INSURANCE SYSTEM (GSIS), A SEMI-GOVERNMENTAL ENTITY. FOLLOWING YEAR GSIS REDUCED ITS HOLDINGS TO

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

MINORITY POSITION, AND IN 1965 CAPITAL EXPANSION IT DECLINED CAPITAL INPUT. GSIS SHARE THUS DROPPED TO ABOUT 24 PERCENT, WHERE IT REMAINS. REP OF ONE OF U.S. CARRIERS STATES GSIS OWNERSHIP OF NO PRACTICAL SIGNIFICANCE, AND HE BELIEVES LOANS FROM GOVERNMENT-OWNED NATIONAL INVESTMENT AND DEVELOPMENT CORPORATION LIKEWISE DO NOT CONSTITUTE DISCRIMINATORY PREFERENCE.

8. CAB MANUAL (REFERENCE C) ERRONEOUSLY STATES THAT U.S. CARRIERS PAN AM AND NORTHWEST HAVE BEEN EXCLUDED FROM IMMIGRANT TRAFFIC BECAUSE SPECIAL IMMIGRANT FARE REQUIRES DIRECT ROUTING. WHILE DIRECT ROUTING IS REQUIRED, THIS MEANS ONLY THAT NO STOP-OVERS ARE PERMITTED. BOTH PAN-AM AND NORTHWEST HAVE DIRECT ROUTES (NORTHWEST ROUTE THROUGH TOKYO IS A DIRECT ROUTE) AND PARTICIPATE FULLY IN IMMIGRANT TRAFFIC. BECAUSE NO INTERLINING IS PERMITTED, NORTHWEST MAY ON BALANCE ACTUALLY BENEFIT FROM THESE REGULATIONS FOR TRAFFIC THROUGH JAPAN; IN ANY CASE, NORTHWEST MANAGER STATES THEY HAVE NO COMPLAINTS ON IMMIGRANT FARE.

9. PAL RECEIVES SOME FINANCIAL BENEFIT FROM ITS DELINQUENCY IN PAYMENT OF LANDING FEES AND OTHER AIR-PORT USE TAXES, FOR WHICH IT IS SUBJECT TO SAME CHARGES AS OTHER INTERNATIONAL CARRIERS. PAL HAS REFUSED TO PAY PENDING PAYMENT BY THE GOVERNMENT OF CHARGES OWED BY THE GOVERNMENT TO PAL FOR HAULING OF PHILIPPINE MAIL.

10. THERE REMAINS ON THE BOOKS A REGULATION GIVING PAL RIGHT OF FIRST REFUSAL ON CHARTER FLIGHTS ORIGINATING IN THE PHILIPPINES AND LIMITING CHARTERS TO 133 SEATS. HOWEVER, AS THERE HAVE APPARENTLY BEEN NO CHARTERS
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

SINCE MARTIAL LAW, THESE PROVISIONS ARE NOW MEANINGLESS.

11. PAL BENEFITS UNDER THE BALIKBAYAN (HOMECOMING) PROGRAM OF THE GOVERNMENT IN THAT ONLY PASSENGERS TRAVELLING ON PAL QUALIFY FOR SUBISDY OF $95, WHICH IS DIFFERENCE BETWEEN $500 ROUND-TRIP FARE SET BY GOVERN-MENT AND IATA APPROVED GROUP OF 70 FARE. IT SHOULD BE NOTED, HOWEVER, THAT PAN AM HAS REFUSED TO PARTICIPATE IN HOMECOMING PROGRAM, AND IF U.S. CAB HAD APPROVED HOMECOMING FARE OF $600, SUBSIDY ARRANGEMENT MIGHT HAVE BEEN ELIMINATED.
SULLIVAN

LIMITED OFFICIAL USE

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

NNN

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, AIRLINES, SUBSIDIES, TAXES
Control Number: n/a
Copy: SINGLE
Draft Date: 20 MAY 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GarlanWA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974MANILA05876
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740124-0671
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740534/aaaabduo.tel
Line Count: 166
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: A. STATE 79306
Review Action: RELEASED, APPROVED
Review Authority: GarlanWA
Review Comment: n/a
Review Content Flags:
Review Date: 31 JUL 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31 JUL 2002 by worrelsw>; APPROVED <26 FEB 2003 by GarlanWA>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR - FOREIGN GOVERNMENT SUBSIDIES TO FORIEGN AIRLINES
TAGS: ETRN, RP, PAL
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005